

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE INSULIN PRICING LITIGATION

Case No. 3:17-cv-699 (BRM) (LHG)

ROCHESTER DRUG
CO-OPERATIVE, INC.,

Plaintiff,

v.

Case No. 3:20-cv-3426 (BRM) (LHG)

ELI LILLY AND COMPANY, *et al.*,

Defendants.

FWK HOLDINGS, LLC,

Plaintiff,

v.

Case No. 3:20-cv-3480 (BRM) (LHG)

NOVO NORDISK INC., *et al.*,

Defendants.

VALUE DRUG COMPANY,

Plaintiff,

v.

Case No. 3:20-cv-5129 (BRM) (LHG)

ELI LILLY AND COMPANY, *et al.*,

Defendants.

ORDER

THIS MATTER comes before the Court upon a series of motions filed by the parties in the above-captioned cases. Specifically, these cases are: (1) Civil Action No. 17-699, captioned *In*

Re Insulin Pricing Litigation (the “IPP Action”), a consolidated class-action suit brought by a proposed nationwide class of similarly situated indirect purchasers and consumers of analog insulins (the “IPP Plaintiffs”) against defendant drug manufacturers Novo Nordisk Inc. (“Novo Nordisk”), Sanofi Aventis U.S. LLC (“Sanofi”), and Eli Lilly and Company (“Eli Lilly”) (collectively, the “Manufacturer Defendants”); (2) Civil Action No. 20-3426, captioned *Rochester Drug Co-Operative, Inc. v. Eli Lilly and Company, et al.* (the “Rochester Action”), a putative class action suit brought by Rochester Drug Co-Operative, Inc. (“Rochester”) on behalf of a proposed class of similarly situated direct purchasers of analog insulins, against the Manufacturer Defendants and CVS Health Corporation, Caremark PCS Health, LLC, Caremark Rx LLC (collectively, “CVS Caremark”), Express Scripts Holding Company, Express Scripts, Inc., Medco Health Solutions, Inc. (collectively, “Express Scripts”), United Health Group Incorporated, United Healthcare Services, Inc., Optum, Inc., OptumRx Holdings, LLC, and OptumRx, Inc. (collectively “OptumRx”) (together, with CVS Caremark and Express Scripts, the “PBM Defendants”); (3) Civil Action No. 20-3480, captioned *FWK Holdings, LLC v. Novo Nordisk Inc., et al.* (the “FWK Action”), a putative class action suit brought by FWK Holdings, LLC (“FWK”) on behalf of a proposed class of similarly situated direct purchasers of analog insulins, against the Manufacturer Defendants and PBM Defendants; and (4) Civil Action No. 20-5129, captioned *Value Drug Company v. Eli Lilly and Company, et al.* (the “Value Drug Action”) (together with the Rochester Action and the FWK Action, the “DPP Actions”), a putative class action suit brought by Value Drug Company (“Value Drug”) (together with Rochester and FWK, the “DPP Plaintiffs”) on behalf of a proposed class of similarly situated direct purchasers of analog insulins, against the Manufacturer and PBM Defendants.

Because the aforementioned cases involve similar allegations of price fixing relating to the benchmark prices of various analog insulins, many of the parties listed above are involved in multiple cases simultaneously, and the various dockets are replete with duplicative motion filings. These motions are: (1) Rochester and Value Drug’s joint motion to consolidate the DPP Actions, and appoint Garwin Gerstein & Fisher LLP as interim lead class counsel (“Rochester’s Motion”)¹; (2) FWK’s motion to consolidate the DPP Actions, coordinate the IPP Action and the DPP Actions, appoint Diane Nast, Michael Roberts, and Don Barrett as co-interim lead class counsel, and appoint Peter S. Pearlman as interim liaison class counsel (“FWK’s Motion”)²; and (3) the IPP Plaintiffs’ cross-motion to stay the DPP Actions pending the completion of discovery in the IPP Action (the “IPP Plaintiffs’ Motion”).³

Having reviewed the submissions filed in connection with the Motions, for the reasons set forth in the accompanying opinion and for good cause shown,

IT IS on this 22nd day of September 2020,

ORDERED that Rochester’s Motion (Civil Action No. 20-3426, ECF No. 41; Civil Action No. 20-3480, ECF No. 8; Civil Action No. 20-5129, ECF No. 6) is **GRANTED IN PART AND DENIED IN PART**; and it is further

ORDERED that the proceedings entitled *FWK Holdings, LLC v. Novo Nordisk, et al.*, Civil Action No. 20-3480 (BRM) (LHG) and *Value Drug Company v. Eli Lilly and Company, et*

¹ Rochester’s Motion is filed at ECF No. 41 in the Rochester Action, at ECF No. 8 in the FWK Action, and at ECF No. 6 in the Value Drug Action. Rochester’s Motion was not filed in the IPP Action.

² FWK’s Motion is filed at ECF No. 43 in the Rochester Action, and ECF No. 342 in the IPP Action. FWK’s Motion was not filed in the FWK Action or the Value Drug Action.

³ The IPP Plaintiffs’ Motion is filed ECF No. 344 in the IPP Action, at ECF No. 52 in the Rochester Action, at ECF No. 20 in the FWK Action, and at ECF No. 16 in the Value Drug Action.

al., Civil Action No. 20-5129 (BRM) (LHG), are consolidated for all purposes with the matter entitled *Rochester Drug Co-Operative, Inc. v. Eli Lilly and Company, et al.*, Civil Action No. 20-3426 (BRM) (LHG) for all purposes. All pleading requirements and deadlines in in Civil Action Nos. 20-3480 and 20-5129 are replaced and superseded by those in Civil Action No. 20-3426. All subsequent papers after the date of this Order shall be entered in Civil Action No. 20-3426; and it is further

ORDERED that Civil Action No. 20-3426 shall now bear the following caption:

IN RE DIRECT PURCHASER INSULIN PRICING LITIGATION
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Case No. 3:20-cv-3426 (BRM) (LHG)

; and it is further

ORDERED that the DPP Plaintiffs shall meet and confer and file a single operative complaint in Civil Action No. 20-3426 by **November 6, 2020**; and it is further

ORDERED that FWK's Motion (Civil Action No. 20-3426, ECF No. 43; Civil Action No. 17-699, ECF No. 342) is **GRANTED IN PART and DENIED IN PART**; and it is further

ORDERED that Dianne M. Nast, Michael L. Roberts, and Don Barrett are appointed as interim co-lead class counsel; and it is further

ORDERED that the Court appoints the following attorney as interim liaison counsel ("Interim Liaison Counsel") for the newly consolidated DPP Actions:

Peter S. Pearlman
COHN LIFLAND PEARLMAN HERRMANN & KNOPP, LLP
Park 80 West Plaza One
250 Pehle Avenue, Suite 401
Saddle Brook, New Jersey 07663
Telephone: (201) 845-9600
Facsimile: (201) 845-9423
Email: psp@njlawfirmllc.com

; and it is further

ORDERED that Interim Liaison Counsel shall (1) maintain and distribute to co-counsel and to the Manufacturer and PBM Defendants' Liaison Counsel, an up-to-date service list; (2) receive and, as appropriate, distribute to co-counsel orders from this Court; (3) maintain or make available to co-counsel at reasonable hours a complete file of all discovery served by or upon each party, except such documents as may be available via this Court's CM/ECF system or at a document depository; and (4) establish and maintain a document depository, if necessary; and it is finally

ORDERED that the IPP Plaintiffs' Motion (Civil Action No. 17-699, ECF No. 344; Civil Action No. 20-3426, ECF No. 52; Civil Action No. 20-3480, ECF No. 20; Civil Action No. 20-5129, ECF No. 16) is **DENIED**.

s/ Brian R. Martinotti
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE